

AQUIFER PROTECTION AREA REGULATIONS

SECTION 1. TITLE AND AUTHORITY

- (a) **Aquifers are an essential natural resource and a major source of public drinking water for the State of Connecticut. Use of groundwater will increase as the population grows and opportunities for new surface water supplies diminish due to the rising cost of land and increasingly intense development. At the same time, numerous drinking water wells have been contaminated by certain land use activities, and others are now threatened. To address this problem, Connecticut has established the Aquifer Protection Area Program (Connecticut General Statutes §22a-354a to §22a-354bb) to identify critical water supply aquifers and to protect them from pollution by managing land use. Protection requires coordinated responsibilities shared by the state, municipality and water companies to ensure a plentiful supply of public drinking water for present and future generations. It is therefore the purpose of these regulations to protect aquifer protection areas within the Town of Darien by making provisions for:**
- (1) implementing regulations consistent with state regulations and An Act Concerning Aquifer Protection Areas, Connecticut General Statutes §22a-354a to §22a-354bb ("the Act");**
 - (2) delineating aquifer protection areas on the Town Zoning Map;**
 - (3) regulating land use activity within the aquifer protection area including: prohibiting certain new activities; registering existing regulated activities; and issuing permits for new regulated activities at registered facilities; and**
 - (4) administering and enforcing these regulations.**
- (b) **These regulations shall be known as the Aquifer Protection Area Regulations (the "APA Regulations") of the Town of Darien.**
- (c) **These regulations were adopted and may be amended, from time to time, in accordance with the provisions of §22a-354p of An Act Concerning Aquifer Protection Areas, the Connecticut General Statutes §22a-354a to §22a-354bb and the Regulations of Connecticut State Agencies §22a-354i-1 through §22a-354i-10.**
- (d) **The Planning and Zoning Commission of the Town of Darien is established as the Aquifer Protection Agency (the "Agency") in accordance with the "Ordinance for the Establishment of an Aquifer Protection Agency," (the "APA Ordinance") effective October 4, 2007, and shall implement the purposes and provisions of the APA Ordinance and the Act.**
- (e) **The Agency shall administer all provisions of the Act and shall approve or deny registrations, issue permits, issue permits with terms, conditions, limitations or modifications, or deny permits for all regulated activities in aquifer protection areas in the Town of Darien pursuant to the Act.**

SECTION 2. DEFINITIONS

(a) As used in these regulations, the following definitions apply:

- (1) "Affected water company" means "affected water company" as defined in §22a-354h of the Connecticut General Statutes;
- (2) "Agency" means the board or commission authorized by the municipality under §22a-354o of the Connecticut General Statutes;
- (3) "Agriculture" means "agriculture" as defined in the §1-1(q) of the Connecticut General Statutes;
- (4) "Applicant" means, as appropriate in context, a person who applies for an exemption under §22a-354i-6 of the Regulations of Connecticut State Agencies, a permit under §22a-354i-8 of the Regulations of Connecticut State Agencies or a permit under Section 9 of the APA Regulations;
- (5) "Application" means, as appropriate in context, an application for an exemption under §22a-354i-6 of the Regulations of Connecticut State Agencies, an application for a permit under §22a-354i-8 of the Regulations of Connecticut State Agencies or an application for a permit under Section 9 of the APA Regulations;
- (6) "Aquifer protection area" means "aquifer protection area" as defined in §22a-354h of the Connecticut General Statutes and any extension of such area approved by the Commissioner pursuant to §22a-354i-4 of the Regulations of Connecticut State Agencies;
- (7) "Area of contribution" means "area of contribution" as defined in §22a-354h of the Connecticut General Statutes and as mapped in accordance with §22a-354b-1 of the Regulations of Connecticut State Agencies;
- (8) "Bulk storage facility" means property where oil or petroleum liquids are received by tank vessel, pipeline, railroad car or tank vehicle for the purpose of storage for wholesale distribution;
- (9) "Certified Hazardous Materials Manager" means a hazardous materials manager certified by the Institute of Hazardous Materials Management and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable laws and identify appropriate pollution prevention practices for such activities;
- (10) "Commissioner" means the commissioner of environmental protection, or his or her agent;
- (11) "Domestic sewage" means "domestic sewage" as defined in §22a-430-3(a) the Regulations of Connecticut State Agencies;

(12) "Facility" means property where a regulated activity is conducted by any person, including without limitation any buildings located on the property that are owned or leased by that person; and includes contiguous land owned, leased, or for which there is an option to purchase by that person;

(13) "Floor drain" means any opening in a floor or surface which opening or surface receives materials spilled or deposited thereon;

(14) "Hazardous material" means (A) any hazardous substance as defined in 40 CFR 302.4 and listed therein at Table 302.4, excluding mixtures with a total concentration of less than 1% hazardous substances based on volume, (B) any hazardous waste as defined in §22a-449(c)-101 of the Regulations of Connecticut State Agencies, (C) any pesticide as defined in §22a-47 of the Connecticut General Statutes, or (D) any oil or petroleum as defined in §22a-448 of the Connecticut General Statutes;

(15) "Hazardous waste" means "hazardous waste" as defined in §22a-449(c)-101 of the Regulations of Connecticut State Agencies;

(16) "Industrial laundry" means a facility for washing clothes, cloth or other fabric used in industrial operations;

(17) "Infiltration device" means any discharge device installed below or above the ground surface that is designed to discharge liquid to the ground;

(18) "Inland wetland and watercourse areas map" means a map pursuant to §22a-42a of the Connecticut General Statutes;

(19) "ISO 14001 environmental management system certification" means a current ISO 14001 environmental management system certification issued by an ISO 14001 environmental management system registrar that is accredited by the American National Standards Institute (ANSI) - American Society for Quality (ASQ) National Accreditation Board (ANAB);

(20) "Level A mapping" means the lines as shown on Level A maps approved or prepared by the Commissioner pursuant to §22a-354c, §22a-354d or §22a-354z of the Connecticut General Statutes encompassing the area of contribution and recharge areas;

(21) "Lubricating oil" means oil that contains less than 1% chlorinated solvents and is used for the sole purpose of lubricating, cutting, grinding, machining, stamping or quenching metals;

(22) "Municipality" means "municipality" as defined in §22a-354h of the Connecticut General Statutes;

(23) "Owner" means the owner or lessee of the facility in question;

(24) "De-icing chemical" means sodium chloride, calcium chloride, or calcium magnesium acetate;

(25) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency, political or administrative subdivision of the state, or other legal entity of any kind;

(26) "Pollution" means "pollution" as defined in §22a-423 of the Connecticut General Statutes;

(27) "Pollution prevention" means the use of processes and materials so as to reduce or minimize the amount of hazardous materials used or the quantity and concentration of pollutants in waste generated;

(28) "Professional engineer" means a professional engineer licensed in accordance with Chapter 391 of the Connecticut General Statutes, and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable law and identify appropriate pollution prevention practices for such activities;

(29) "Publicly Owned Treatment Works" means "publicly owned treatment works" as defined in §22a-430-3 of the Regulations of Connecticut State Agencies;

(30) "Public service company" means "public service company" as defined in §16-1 of the Connecticut General Statutes;

(31) "Public supply well" means "public supply well" as defined in §19-13-B51b of the Regulations of Connecticut State Agencies;

(32) "Recharge area" means "recharge area" as defined in §22a-354h of the Connecticut General Statutes and as mapped in accordance with §22a-354b-1 of the Regulations of Connecticut State Agencies;

(33) "Registered regulated activity" means a regulated activity which has been registered under §22a-354i-7 of the Regulations of Connecticut State Agencies or Section 8 of the APA Regulations, and is conducted at the facility identified in such registration;

(34) "Registrant" means a person, who or which, has submitted a registration for an existing regulated activity under §22a-354i-7 of the Regulations of Connecticut State Agencies or Section 4 of the APA Regulations;

(35) "Regulated activity" means any of the following activities, which are located or conducted, wholly or partially, in an aquifer protection area, except as provided for in §22a-354i-5(c) and §22a-354i-6 of the Regulations of Connecticut State Agencies, or Section 4 of the APA Regulations:

(A) underground storage or transmission of oil or petroleum, to the extent such activity is not pre-empted by federal law, or hazardous material,

except for (i) an underground storage tank that contains number two (2) fuel oil and is located more than five hundred (500) feet from a public supply well subject to regulation under §22a-354c or §22a-354z of the Connecticut General Statutes, or (ii) underground electrical facilities such as transformers, breakers, or cables containing oil for cooling or insulation purposes which are owned and operated by a public service company,

(B) oil or petroleum dispensing for the purpose of retail, wholesale or fleet use,

(C) on-site storage of hazardous materials for the purpose of wholesale sale,

(D) repair or maintenance of vehicles or internal combustion engines of vehicles, involving the use, storage or disposal of hazardous materials, including solvents, lubricants, paints, brake fluids, transmission fluids or the generation of hazardous wastes,

(E) salvage operations of metal or vehicle parts,

(F) wastewater discharges to ground water other than domestic sewage and stormwater, except for discharges from the following that have received a permit from the Commissioner pursuant to §22a-430 of the Connecticut General Statutes: (i) a pump and treat system for ground water remediation, (ii) a potable water treatment system, (iii) heat pump system, (iv) non-contact cooling water system, (v) swimming pools,

(G) car or truck washing, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,

(H) production or refining of chemicals, including without limitation hazardous materials or asphalt,

(I) clothes or cloth cleaning service which involves the use, storage or disposal of hazardous materials including without limitation dry-cleaning solvents,

(J) industrial laundry activity that involves the cleaning of clothes or cloth contaminated by hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,

(K) generation of electrical power by means of fossil fuels, except for (i) generation of electrical power by an emergency engine as defined by §22a-174-22(a)(2) of the Regulations of Connecticut State Agencies, or (ii) generation of electrical power by means of natural gas or propane,

(L) production of electronic boards, electrical components, or other electrical equipment involving the use, storage or disposal of any hazardous

material or involving metal plating, degreasing of parts or equipment, or etching operations,

(M) embalming or crematory services which involve the use, storage or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,

(N) furniture stripping operations which involve the use, storage or disposal of hazardous materials,

(O) furniture finishing operations which involve the use, storage or disposal of hazardous materials, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,

(P) storage, treatment or disposal of hazardous waste subject to a permit under §22a-449(c)-100 to §22a-449(c)-110, inclusive, of the Regulations of Connecticut State Agencies,

(Q) biological or chemical testing, analysis or research which involves the use, storage or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works, and provided that on-site testing of a public supply well by a public water utility is not a regulated activity,

(R) pest control services which involve storage, mixing or loading of pesticides or other hazardous materials,

(S) photographic finishing which involves the use, storage or disposal of hazardous materials, unless all waste water from such activity are lawfully disposed of through a connection to a publicly owned treatment works,

(T) production or fabrication of metal products which involves the use, storage or disposal of hazardous materials including (i) metal cleaning or degreasing with industrial solvents, (ii) metal plating, or (iii) metal etching,

(U) printing, plate making, lithography, photoengraving, or gravure, which involves the use, storage or disposal of hazardous materials,

(V) accumulation or storage of waste oil, anti-freeze or spent lead-acid batteries which are subject to a general permit issued under §22a-208(i) and §22a-454(e)(1) of the Connecticut General Statutes,

(W) production of rubber, resin cements, elastomers or plastic, which involves the use, storage or disposal of hazardous materials,

(X) storage of de-icing chemicals, unless such storage takes place within a weather-tight water-proof structure for the purpose of retail sale or for the purpose of de-icing parking areas or access roads to parking areas,

(Y) accumulation, storage, handling, recycling, disposal, reduction, processing, burning, transfer or composting of solid waste which is subject to a permit issued by the Commissioner pursuant to §22a-207b, §22a-208a, and §22a-208c of the Connecticut General Statute, except for a potable water treatment sludge disposal area,

(Z) dyeing, coating or printing of textiles, or tanning or finishing of leather, which activity involves the use, storage or disposal of hazardous materials,

(AA) production of wood veneer, plywood, reconstituted wood or pressure-treated wood, which involves the use, storage or disposal of hazardous material, and

(BB) pulp production processes that involve bleaching;

(36) "Release" means "release" as defined in §22a-133k-1 of the Regulations of Connecticut State Agencies;

(37) "State aquifer protection regulations" means §22a-354i-1 to §22a-354i-10, inclusive, of the Regulations of Connecticut State Agencies;

(38) "Storage" means the holding or possession of any hazardous material;

(39) "Storage tank" means a stationary device which is designed to store hazardous materials, and is constructed of non-earthen materials including without limitation concrete, steel, fiberglass or plastic;

(40) "Topographic feature" means an object, whether natural or man-made, located on the earth surface and of sufficient size that it appears on a 1:24,000 scale topographic quadrangle map drawn by the United States Geological Survey;

(41) "Underground" when referring to a storage tank or storage tank component means that ten percent or more of the volumetric capacity of such tank or component is below the surface of the ground and that portion which is below the surface of the ground is not fully visible for inspection;

(42) "Vehicle" or "vehicles" means a "vessel" as defined by §15-170 of the Connecticut General Statutes, and any vehicle propelled or drawn by any non-muscular power, including without limitation an automobile, aircraft, all-terrain vehicle, tractor, lawn mower or snowmobile;

(43) "Waters" means "waters" as defined in §22a-423 of the Connecticut General Statutes;

(44) "Well field" means "well field" as defined in §22a-354h of the Connecticut General Statutes; and

(45) "Zoning Map" means any map showing zoning districts prepared in accordance with maps adopted pursuant to §8-3 of the Connecticut General Statutes.

SECTION 3. DELINEATION OF AQUIFER PROTECTION AREA BOUNDARIES

(a) The Planning and Zoning Commission shall delineate the aquifer protection areas on the Town of Darien Zoning Map or, if zoning district maps do not exist, the inland wetland and watercourse areas map adopted pursuant to §22a-42a the Connecticut General Statutes. Such delineation shall consist of the combined areas of contribution and recharge areas as shown on Level A maps approved or prepared by the Commissioner.

(1) Such boundaries shall be delineated within one hundred twenty (120) days after being notified by the Commissioner that an aquifer protection area is located partially or entirely within the Town of Darien.

(2) Notice of such delineation shall be published in a newspaper having substantial circulation in the affected area. Such notice shall include at least the following:

(A) a map or detailed description of the subject aquifer protection area; and

(B) the name, telephone number, and address of a representative of the Agency who may be reached for further information.

(b) In order to clarify the location of an aquifer protection area boundary, the Agency may apply to the Commissioner to extend such boundary to coincide with the nearest property line, municipal boundary or topographic feature pursuant to §22a-354i-4 of the Regulations of Connecticut State Agencies. Such extension shall, at a minimum, fully encompass the aquifer protection areas bounded by the approved level A mapping but shall not exceed the distance necessary to clarify the location of the aquifer protection area or to facilitate the administration of regulations pertaining thereto. An aquifer protection area boundary may not be extended without prior written approval of the Commissioner.

(1) Any request by the Agency to the Commissioner for extension of an aquifer protection area boundary shall include at least the following:

(A) A map to scale delineating (i) the aquifer protection area boundary mapped under Section 3(a) of the APA regulations and (ii) the proposed extension of the aquifer protection area boundary;

(B) A certification by the chairperson or duly authorized agent of the Agency that notice of such request has been provided to all owners of

property within the proposed extended aquifer protection area and all affected water companies in accordance with the following:

(i) Such notice shall include at least the following:

(aa) A map showing the aquifer protection area boundaries and the proposed extension of such boundaries,

(bb) the name, address, and telephone number of a representative of the Agency who may be contacted for further information, and

(cc) a statement that any person may, not later than thirty (30) days after said notification, submit to the Agency written comments on such proposed boundary extension;

(ii) Such notice shall be effectuated by the following:

(aa) Delivery of notice by certified mail to those individuals and entities identified in Subsection (b)(1)(B) of this Section, or

(bb) the publication of a notice in a newspaper having substantial circulation in the affected area; and posting of notice near the proposed boundaries of the subject aquifer protection area of at least four signs each of which shall be at least four square feet in size (2' x 2'); and

(iii) a summary of comments received by such Agency regarding the proposed boundary extension and the Agency's response.

(2) Not later than sixty (60) days after receiving the Commissioner's written approval of a request to extend an aquifer protection area boundary, the Agency shall cause such boundary to be delineated in accordance with Subsection (a) of this Section.

(c) No person may challenge the boundaries of the aquifer protection area under the APA Regulations unless such challenge is based solely on a failure by the Agency to properly delineate the boundaries in accordance with §22a-354n of the Connecticut General Statutes.

(d) A map of the location and boundaries of the aquifer protection areas, or regulated areas, shall be available for inspection in the Office of the Town Clerk or the Agency.

(e) If the Level A mapping is amended in accordance with §22a-354b-1(i) or §22a-354b-1(j) of the Regulations of Connecticut State Agencies, the Agency shall cause the amended aquifer protection area boundary to be delineated in accordance with Subsections (a) or (b) of this Section.

SECTION 4. PROHIBITED AND REGULATED ACTIVITIES

(a) All regulated activities are prohibited in aquifer protection areas, except as specified in Subsection (b) of this Section.

(b) The following regulated activities are not prohibited in aquifer protection areas:

(1) A registered regulated activity which is conducted in compliance with §22a-354i-9 of the Regulations of Connecticut State Agencies or Section 12 of the APA Regulations; and

(2) a regulated activity which has received a permit issued pursuant to §22a-354i-8 of the Regulations of Connecticut State Agencies or Section 9 of the APA Regulations.

(c) The following are not regulated activities:

(1) Any activity conducted at a residence without compensation;

(2) any activity involving the use or storage of no more than two and one-half (2.5) gallons of each type of hazardous material on-site at any one time, provided the total of all hazardous materials on-site does not exceed fifty-five (55) gallons at any one time;

(3) any agricultural activity regulated pursuant to §22a-354m(d) of the Connecticut General Statutes;

(4) any activity provided all the following conditions are satisfied:

(A) such activity takes place solely within an enclosed building in an area with an impermeable floor,

(B) such activity involves no more than 10% of the floor area in the building where the activity takes place,

(C) any hazardous material used in connection with such activity is stored in such building at all times,

(D) all waste waters generated by such activity are lawfully disposed through a connection to a publicly owned treatment works, and

(E) such activity does not involve (i) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with such vehicles, (ii) underground storage of any hazardous material, or (iii) above ground storage of more than one hundred and ten (110) gallons of hazardous materials;

(5) any activity solely involving the use of lubricating oil provided all the following conditions are satisfied:

(A) such activity does not involve cleaning of metals with chlorinated solvents at the facility,

(B) such activity takes place solely within an enclosed building in an area with an impermeable floor,

(C) any hazardous material used in connection with such activity is stored in such building at all times, and

(D) such activity does not involve: (i) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with such vehicles, (ii) underground storage of any hazardous material, or (iii) above ground storage of more than one hundred ten (110) gallons of such lubricating oil and associated hazardous waste; and

(6) any activity involving the dispensing of oil or petroleum from an above-ground storage tank or tanks with an aggregate volume of two thousand (2000) gallons or less provided all the following conditions are satisfied:

(A) such dispensing activity takes place solely on a paved surface which is covered by a roof,

(B) the above-ground storage tank(s) is a double-walled tank with overfill alarms, and

(C) all associated piping is either above ground, or has secondary containment.

(d) Determination of a non-regulated activity

(1) Any person proposing to carry out a non-regulated activity, as set forth in Section 4(c) of these regulations, in an aquifer protection area shall, prior to commencement of such activity, notify the Agency or its duly authorized agent on a form provided by the Agency. Such form shall provide sufficient information to enable the Agency or its duly authorized agent to properly determine that the proposed activity is a regulated activity or a non-regulated activity within the aquifer protection area. (2) If such activity is determined to be a non-regulated activity, then no further action under the APA Regulations is necessary.

SECTION 5. ACTIVITIES REGULATED BY THE STATE

- (a) The Commissioner shall exclusively regulate activities within aquifer protection areas that are specified in §22a-354p(g) of the Connecticut General Statutes. The Agency shall regulate all other regulated activities.
- (b) Any person conducting regulated activities that are within the authority of the Commissioner shall submit a registration or obtain a permit or exemption from the Commissioner prior to engaging in such activity. The Commissioner shall process applications for those regulated activities.
- (c) The Agency may submit an advisory decision to the Commissioner for consideration on any permit regulated under this Section in accordance with the Connecticut General Statutes §22a-354p(g).

SECTION 6. APPLICATION FOR AN EXEMPTION FROM PROHIBITION OR REGULATION

- (a) The owner or operator of a regulated activity may seek an exemption from the Commissioner pursuant to §22a-354i-6 of the Regulations of Connecticut State Agencies. Any person seeking an exemption from the Commissioner shall concurrently submit a copy of the application for an exemption to the Agency and any affected water company.
- (b) The Agency may submit written comments to the Commissioner on any exemption regulated under this Section in accordance with §22a-354i-6(c) of the Regulations of Connecticut State Agencies within sixty (60) days of the agency receipt of copy of the application.

SECTION 7. GENERAL REGISTRATION, PERMIT APPLICATION AND TRANSFER PROCEDURES

- (a) All applications for permits and registrations shall contain sufficient information for a fair and informed determination of the issues. The Agency may request additional information from the applicant for this purpose.
- (b) The day of receipt of a registration, permit application or transfer form shall be the day of the next regularly scheduled meeting of the Agency, immediately following the day of submission of the application to the Agency or its duly authorized agent, or thirty-five (35) days after such submission, whichever is sooner.
- (c) At any time during the review period, the Agency may require the applicant or registrant to provide additional information about the regulated activity. Requests for additional information shall not stay the time limitations for registrations and permits as set forth in Sections 8 and 9 of the APA Regulations.

- (d) All permit applications and registrations shall be open for public inspection.
- (e) Incomplete permit applications and registrations may be denied without prejudice.
- (f) No permit or registration issued under Sections 8 or 9 of the APA Regulations shall be assigned or transferred except with written approval by the Agency.
- (g) The Agency shall notify the town clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which:
 - (1) any portion of the property affected by a decision of such agency is within five-hundred feet of the boundary of the adjoining municipality;
 - (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
 - (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
 - (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

SECTION 8. REGISTRATION REQUIREMENTS

- (a) Any person engaged in a regulated activity which substantially commenced, or was in active operation within the past five (5) years, or with respect to which a municipal building permit was issued, either (A) before the effective date of the state aquifer protection regulations, or (B) before the date an applicable aquifer protection area is designated on a municipal zoning district map or inland wetland and watercourse areas map, whichever occurs later, shall register the activity in accordance with this Section unless such person has pending an application for an exemption pursuant to §22a-354i-6 of the Regulations of Connecticut State Agencies.
 - (1) The Commissioner shall process registrations for those regulated activities specified in §22a-354p(g) of the Connecticut General Statutes. The Agency shall process registrations for all other regulated activities.
 - (2) If the regulated activity is not specified in §22a-354p(g) of the Connecticut General Statutes, the person engaged in such activity shall submit a registration to the Agency not later than one hundred eighty (180) days after adoption of regulations pursuant to §22a-354p of the Connecticut General Statutes, or the designation the aquifer protection area pursuant to §22a-354i-2 of the Regulations of Connecticut State Agencies, whichever occurs later. Said person shall

simultaneously file a copy of the registration with the Commissioner, Commissioner of Public Health and the affected water company.

(b) All registrations shall be provided on a form prescribed by the Agency and shall be accompanied by the correct registration fee in accordance with Section 18 of the APA Regulations. Such registration forms may be obtained from the Town Clerk or the Agency. Such registration forms shall include at least the following information in writing or on maps or drawings:

(1) The name, business telephone number, street address and mailing address of the:

(A) Registrant; if the registrant is a corporation or limited partnership, the full name of the facility and such corporation or limited partnership as registered with the Connecticut Secretary of State, and any officer or governing or managing body of any partnership, association, firm or corporation,

(B) owner of such facility if different than the registrant, and

(C) manager or operator overseeing the operations of such facility;

(2) the location of such facility, using street address or other appropriate method of location, and a map showing the property boundaries of the facility on a 1:24,000 scale United States Geological Survey topographic quadrangle base;

(3) an identification of the regulated activity or activities conducted at the facility, as described in Section 2(a)(35) of the APA Regulations, which regulated activity or activities shall consist of any regulated activity which substantially commenced, was in active operation, or with respect to which a municipal building permit was issued within the past five years; and

(4) a certification by the registrant that the subject regulated activity is in compliance with the best management practices set forth in Section 12(a) of the APA Regulations, as follows, signed after satisfying the statements set forth in the following certification:

"I have personally examined and am familiar with the information submitted in this registration and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in this document or certification may be punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

(c) When deemed necessary to protect a public supply well subject to regulation under §22a-354c or §22a-354z of the Connecticut General Statutes, the Agency may:

(1) require, by written notice, any registrant to submit for review and written approval a storm water management plan prepared in accordance with Section 12(b) of the APA Regulations. If so required, the storm water management plan shall be implemented by the registrant immediately upon its approval; or

(2) require, by written notice, any registrant to submit for review and written approval the materials management plan prepared in accordance with Section 12(a) of the APA Regulations. If so required, the materials management plan shall be implemented by the registrant immediately upon its approval.

(d) If the Agency determines that a registration is incomplete, it shall reject the registration and notify the registrant of what additional information is required and the date by which it shall be submitted.

(e) If the registration is determined to be complete, and the regulated activity is eligible for registration, the Agency shall send written notification of such registration to the registrant. Such registration shall be determined to be complete and eligible if the registrant has not otherwise received a notice of rejection from the Agency, not later than one hundred and eighty (180) days after the date the registration is received by the Agency.

(f) The following general provisions shall be included in the issuance of all registrations:

(1) The Agency has relied in whole or in part on information provided by the registrant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the registration may be modified, suspended or revoked;

(2) all registrations issued by the Agency are subject to and do not derogate any present or future rights or powers of the Commissioner, Agency, or municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity;

(3) a complete registration shall expire five (5) years from the date of receipt of such registration by the Agency;

(4) the registrant shall apply to the Agency to renew the registration on a form prescribed by the Agency for a facility prior to expiration of such registration; and

(5) If a registered regulated activity is out of business or inactive when registration renewal is required, a five (5) year allowance shall be in effect from the date the registration expires. If the registrant has not applied to renew the registration within five (5) years of the date the registration expires, the facility is no longer eligible for registration.

(g) If a regulated activity which is eligible for registration in accordance with Subsection (a) of this Section fails to be registered or if the registrant of an active registered activity fails to apply for renewal prior to expiration, the Commissioner or municipal aquifer

protection agency, as appropriate, may accept a late registration at their discretion, subject to the limitations in Subsection (f)(5) of this Section.

(h) Any person wishing to assume the benefits under a registration for regulated activities shall apply to transfer such registration on a form prescribed by the Agency and submitted to the Agency.

SECTION 9. PERMIT REQUIREMENTS

(a) Any person may apply for a permit to add a regulated activity to a facility where a registered regulated activity occurs.

(b) The Agency shall process permit applications for those registrants that have registered pursuant to Section 8 of the APA Regulations. The Commissioner shall process permit applications for regulated activities specified in §22a-354p(g) of the Connecticut General Statutes and for those registrants that have registered pursuant to §22a-354i-7(b)(1) of the Regulations of Connecticut State Agencies.

(c) Action shall be taken on permit applications within sixty-five (65) days after the completion of a public hearing or in the absence of a public hearing within sixty-five (65) days from the date of receipt of the application. The applicant may consent to one or more extensions of either of these timeframes, provided the total extension of all such periods is sixty-five (65) days or less.

(d) An application for a permit shall be made on a form prescribed by the Agency and shall be accompanied by the correct application fee in accordance with Section 18 of the APA Regulations. Such permit application forms may be obtained from the Town Clerk or the Agency. Simultaneously with filing an application, the applicant shall send a copy of the application to the Commissioner, the Commissioner of Public Health and the affected water company. An application shall include the following information:

(1) The information as required for a registration under Section 8(b) of the APA Regulations shall be provided for the proposed regulated activity;

(2) a confirmation and certification that the existing and proposed activity:

(A) remains and shall remain in compliance with Section 12(a) of the APA Regulations,

(B) shall not increase the number of underground storage tanks used for storage of hazardous materials, and

(C) remains and shall remain in compliance with all local, state, and federal environmental laws;

(3) a materials management plan in accordance with Section 12(a) of the APA Regulations;

(4) a storm water management plan in accordance with Section 12(b) of the APA Regulations;

(5) the following environmental compliance information with respect to environmental violations which occurred at the facility where the regulated activities are conducted, within the five years immediately preceding the date of the application:

(A) any criminal conviction involving a violation of any environmental protection law,

(B) any civil penalty imposed in any state or federal judicial proceeding, or any penalty exceeding five thousand dollars imposed in any administrative proceeding, and

(C) any judicial or administrative orders issued regarding any such violation together with the dates, case or docket numbers, or other information which identifies the proceeding. For any such proceeding initiated by the state or federal government, the Agency may require submission of a copy of any official document associated with the proceeding, the final judgment or order;

(6) any additional information deemed necessary by the Agency regarding potential threats to the ground water and proposed safeguards; and

(7) the following certification signed by the applicant and the individual responsible for preparing the application, after satisfying the statements set forth in the certification: "I have personally examined and am familiar with the information submitted in this document and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under §53a-157b of the Connecticut General Statutes and any other applicable law."

(e) The Commissioner, any affected water company or the Commissioner of Public Health may, not later than thirty (30) days after receiving a copy of an application for a permit under this Section, submit to the Agency written comments on such application. The Agency shall give due consideration to any such comments, and shall provide a copy of the decision to the Commissioner, the affected water company and the Commissioner of Public Health.

(f) To carry out the purposes of the Act, the Agency may grant an application as filed, grant it upon such terms, conditions, limitations or modifications necessary, or deny it. The Agency shall state upon the record the reason for its decision.

(g) The Agency may hold a public hearing on an application for a permit in accordance with Section 10 of the APA regulations.

(h) The Agency shall not issue a permit unless a complete application has been received and the applicant demonstrates to the Agency's satisfaction that all requirements of this Section of the APA regulations have been satisfied and all of the following standards and criteria have been met:

(1) the proposed regulated activity shall take place at a facility where a registered regulated activity occurs;

(2) the proposed regulated activity shall not increase the number, or storage capacity of underground storage tanks used for hazardous materials except for the replacement of an existing underground storage tank in accordance with Section 12(a)(3) of the APA Regulations;

(3) the materials management plan and storm water management plan have been satisfactorily prepared in accordance with Sections 12(a) and 12(b) of the APA Regulations;

(4) the applicant has submitted a confirmation and certification that all regulated activities remain and shall remain in compliance with all local, state and federal environmental laws in accordance with Subsection (d)(2) of this Section;

(5) the applicant's compliance record does not indicate (A) that any noncompliance resulted from indifference to or disregard for the legal requirements, (B) an unwillingness or inability to devote the resources necessary to comply and remain in compliance, or (C) that instances of noncompliance have led to serious environmental harm, harm to human health or safety, or a substantial risk of such harm;

(6) the proposed regulated activity shall be conducted in accordance with Section 12 of the APA Regulations;

(7) the existing regulated activity is being conducted in accordance with Section 12 of the APA Regulations; and

(8) the certification required under Subsection (d)(7) of this Section has been signed by the applicant and the individual responsible for preparing the application.

(i) The Agency may impose reasonable conditions or limitations on any permit issued under this Section to assure protection of the ground water, including, but not limited to the following:

(1) best management practices in addition to those set forth in Section 12 of the APA Regulations; and

(2) ground water monitoring.

(j) The following general provisions shall be included in the issuance of all permits:

(1) the Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked;

(2) all permits issued by the Agency are subject to and do not derogate any present or future rights or powers of the Commissioner, Agency, or municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity;

(3) the permit shall expire ten (10) years from the date of issuance of such permit by the Agency; and

(4) a person shall apply to the Agency to renew the permit on a form prescribed by the Agency prior to expiration of such permit. Such renewal shall be granted upon request by the Agency unless a substantial change in the permitted activity is proposed, or enforcement action with regard to the regulated activity has been taken, in which case, a new permit application shall be submitted and reviewed in accordance with the provisions of this Section.

(k) The Agency shall notify the applicant or permittee within fifteen (15) days of the date of the decision by certified mail, return receipt requested, and the Agency shall cause notice of its order in issuance or denial of a permit to be published in a newspaper having a general circulation in the municipality in which the aquifer protection area is located.

(l) A permittee may request a modification of a permit from the Agency. Such request shall be on a form prescribed by the Agency, and shall include the facts and reasons supporting the request. The Agency may require the permittee to submit a new application for a permit or renewal in lieu of a modification request.

(m) A person wishing to assume the benefits under a permit for regulated activities shall apply to transfer such permit on a form prescribed by the Agency and submitted to the Agency.

SECTION 10. PUBLIC HEARINGS REGARDING PERMIT APPLICATIONS

(a) If the Agency decides to hold a public hearing regarding an application for a permit to conduct a regulated activity within an aquifer protection area, such hearing shall commence no later than sixty-five (65) days after the receipt of such application.

(b) Notice of the hearing shall be published at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a

general circulation in each Darien (where the affected aquifer, or any part thereof, is located).

(c) The Agency shall send to any affected water company, at least ten (10) days before the hearing, a copy of the notice by certified mail, return receipt requested. Any affected water company may, through a representative, appear and be heard at any such hearing.

(d) All applications, maps and documents relating thereto shall be open for public inspection.

(e) At such hearing any person or persons may appear and be heard.

(f) The hearing shall be completed within thirty-five (35) days of its commencement.

(g) The applicant may consent to an extension of the time frames in Subsections (a) or (f) of this Section, provided the total extension of all such periods, including any extensions provided in Section 9(c), totals sixty-five (65) days or less.

(h) In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the Agency in its decision.

(i) The applicant or permittee shall be notified of the Agency's decision in accordance with Section 9(k) of the APA Regulations.

SECTION 11. BOND AND INSURANCE RELEVANT TO PERMIT APPLICANTS

(a) An applicant may be required to file a bond as a condition of the permit.

(b) Any bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit.

SECTION 12. BEST MANAGEMENT PRACTICES

(a) Every regulated activity shall be conducted in accordance with the following:

(1) hazardous materials may be stored above ground within an aquifer protection area only in accordance with the following conditions:

(A) hazardous material shall be stored in a building or under a roof that minimizes storm water entry to the hazardous material storage area, except that a roof is not required for a bulk storage facility as defined in Section 2 of the APA Regulations,

(B) floors within a building or under a roof where hazardous material may be stored shall be constructed or treated to protect the surface of the floor from deterioration due to spillage of any such material,

(C) a structure which may be used for storage or transfer of hazardous material shall be protected from storm water run-on, and ground water intrusion,

(D) hazardous material shall be stored within an impermeable containment area which is capable of containing at least the volume of the largest container of such hazardous material present in such area, or 10% of the total volume of all such containers in such area, whichever is larger, without overflow of released hazardous material from the containment area,

(E) hazardous material shall not be stored with other hazardous materials that are incompatible and may create a hazard of fire, explosion or generation of toxic substances,

(F) hazardous material shall be stored only in a container that has been certified to meet state or federal specifications for containers suitable for the transport or storage of such material,

(G) hazardous material shall be stored only in an area that is secured against unauthorized entry by the public, and

(H) the requirements of this subdivision are intended to supplement, and not to supersede, any other applicable requirements of federal, state, or local law, including applicable requirements of the Resource Conservation and Recovery Act of 1976;

(2) no person shall increase the number of underground storage tanks used to store hazardous materials;

(3) an underground storage tank used to store hazardous materials shall not be replaced with a larger tank unless (A) there is no more than a 25% increase in volume of the larger replacement tank, and (B) the larger replacement tank is a double-walled tank with co-axial piping, both meeting new installation component standards pursuant to §22a-449(d)-1(e) and §22a-449(d)-102 of the Regulations of Connecticut State Agencies, and with interstitial monitoring;

(4) no person shall use, maintain or install floor drains, dry wells or other infiltration devices or appurtenances which allow the release of waste waters to the ground, unless such release is permitted by the Commissioner in accordance with §22a-430 or §22a-430b of the Connecticut General Statutes; and

(5) a materials management plan shall be developed and implemented in accordance with the following:

(A) a materials management plan shall contain, at a minimum, the following information with respect to the subject regulated activity:

(i) a pollution prevention assessment consisting of a detailed evaluation of alternatives to the use of hazardous materials or processes and practices that would reduce or eliminate the use of hazardous materials, and implementation of such alternatives where possible and feasible,

(ii) a description of any operations or practices which may pose a threat of pollution to the aquifer, which shall include the following:

(aa) a process flow diagram identifying where hazardous materials are stored, disposed and used, and where hazardous wastes are generated and subsequently stored and disposed,

(bb) an inventory of all hazardous materials which are likely to be or will be manufactured, produced, stored, utilized or otherwise handled, and

(cc) a description of waste, including waste waters generated, and a description of how such wastes are handled, stored and disposed,

(iii) the name, street address, mailing address, title and telephone number of the individual(s) responsible for implementing the materials management plan and the individual(s) who should be contacted in an emergency,

(iv) a record-keeping system to account for the types, quantities, and disposition of hazardous materials which are manufactured, produced, utilized, stored, or otherwise handled or which are discharged or emitted; such record-keeping system shall be maintained at the subject facility and shall be made available thereat for inspection during normal business hours by the Commissioner and the municipal aquifer protection agency, and

(v) an emergency response plan for responding to a release of hazardous materials. Such plan shall describe how each such release could result in pollution to the underlying aquifer and shall set forth the methods used or to be used to prevent and abate any such a release;

(B) when a materials management plan is required under either Section 8(c) or 9(d) of the APA Regulations, such materials management plan shall be completed and certified by a professional engineer or a certified hazardous materials manager, or, if the facility where the regulated activity is conducted has received and maintained an ISO 14001 environmental management system certification, then the registrant may complete and certify the materials management plan; and

(C) the materials management plan shall be maintained at the subject facility and shall be made available thereat for inspection during normal business hours by the Commissioner and the municipal aquifer protection agency.

(b) The development and implementation of a storm water management plan required for regulated activities in accordance with Sections 8(c) and 9(d) of the APA Regulations, shall be as follows: A storm water management plan shall assure that storm water run-off generated by the subject regulated activity is (i) managed in a manner so as to prevent pollution of ground water, and (ii) shall comply with all of the requirements for the General Permit of the Discharge of Storm Water associated with a Commercial Activity issued pursuant to §22a-430b of the Connecticut General Statutes.

SECTION 13. OTHER STATE, FEDERAL AND LOCAL LAWS

(a) Nothing in these regulations shall obviate the requirement for the applicant to obtain any other assents, permits or licenses required by law or regulation by the Town of Darien, State of Connecticut and the Government of the United States including any approval required by the Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers and the United States Environmental Protection Agency. Obtaining such assents, permits or licenses are the sole responsibility of the applicant.

(b) No person shall conduct any regulated activity within an aquifer protection area which requires zoning or subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception or variance, or other documentation establishing that the proposal complies with the Town of Darien zoning or subdivision regulations.

SECTION 14. ENFORCEMENT

(a) The Agency may appoint a duly authorized agent to act in its behalf with the authority to issue notices of violation or cease and desist orders.

(b) If the Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which violates any provision of these regulations, the Agency or its duly authorized agent may:

(1) Issue a notice of violation.

(A) The notice of violation shall state the nature of the violation, the jurisdiction of the Agency, and the necessary action required to correct the violation including without limitation halting the activity in the aquifer protection area.

(B) The Agency may request that the person appear at the next regularly scheduled meeting of the Agency to discuss the unauthorized activity, and/or provide a written reply to the notice or file an application for the

necessary permit or registration. Failure to carry out the action(s) directed in a notice of violation may result in issuance of an order under Subsection (2) of this Section or other enforcement proceedings as provided by law.

(2) Issue a written order.

(A) Such order shall be issued by certified mail, return receipt requested to such person conducting such activity or maintaining such facility or condition to cease such activity immediately or to correct such facility or condition. The Agency shall send a copy of such order to any affected water company by certified mail, return receipt requested.

(B) Within ten (10) days of the issuance of such order the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. Any affected water company may testify at the hearing. The Agency shall consider the facts presented at the hearing and, within ten (10) days of the completion of the hearing, notify the person by certified mail, return receipt requested, that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn.

(3) Suspend or revoke registration or permit.

(A) The Agency may suspend or revoke a registration or a permit if it finds, after a hearing, that the registrant or permittee has not complied with the terms, conditions or limitations set forth in the registration or the permit. Prior to revoking or suspending any registration or permit, the Agency shall issue notice to the registrant or the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct that warrants the intended action.

(B) The Agency shall hold a hearing to provide the registrant or permittee an opportunity to show that it is in compliance with its registration or permit. The Agency shall notify the registrant or permittee of its decision by certified mail within fifteen (15) days of the date of its decision. The Agency shall publish notice of a suspension or revocation in a newspaper having general circulation in the Town of Darien.

(c) An order issued pursuant to Subsection (b)(2) of this Section shall be effective upon issuance, shall remain in effect until the Agency affirms, revises, or withdraws the order, and shall not delay or bar an action pursuant to Subsection (b)(3) of this Section.

(d) A court may assess criminal and or civil penalties to any person who commits, takes part in, or assists in any violation of any provision of the APA regulations in accordance with §22a-354s(b) and §22a-354s(c) of the Connecticut General Statutes.

SECTION 15. AMENDMENTS

(a) These regulations may be amended, changed or repealed in accordance with §22a-354p(b) of the Connecticut General Statutes.

(b) If a complete application is filed with the Agency which is in conformance with the APA regulations as of the date of its filing, the permit issued shall not be required to comply with any changes in regulations taking effect on or after the filing date. The provisions of this Section shall not apply to the establishment, amendment, or change of the boundaries of the aquifer protection area or to any changes in the APA Regulations necessary to make the regulations consistent with Chapter 446i of the Connecticut General Statutes as of the date of the Agency's decision.

SECTION 16. APPEALS

(a) Appeal of the Agency's regulation, order, decision or action shall be made in accordance with §22a-354q of the Connecticut General Statutes.

SECTION 17. CONFLICT AND SEVERANCE

(a) If there is a conflict between the provisions of the APA Regulations, the provision that imposes the most stringent standards shall govern. The invalidity of any word, clause, sentence, section, part, subsection, subdivision or provision of these regulations shall not affect the validity of any other part that can be given effect without such valid part or parts.

(b) If there is a conflict between the provisions of the APA Regulations and the Act, the provisions of the Act shall govern.

SECTION 18. REGISTRATION AND PERMIT APPLICATION FEES

(a) All fees required by these regulations shall be submitted to the Agency by certified check or money order payable to the Town of Darien at the time the registration or permit application is filed with the Agency.

(b) No registration or permit application shall be granted or approved by the Agency unless the correct registration/application fee is paid in full or unless a waiver has been granted by the Agency pursuant to Subsection (f) of this Section.

(c) The registration or permit application fee is nonrefundable.

(d) Registration or permit application fees shall be based on the following schedule:

Registrations: \$100 per facility.

Permits: \$100 per facility

(e) Boards, commissions, councils and departments of the Town of Darien are exempt from all fee requirements.

(f) The registrant or applicant may petition the Agency to waive, reduce or allow delayed payment of the fee. Such petitions shall be in writing and shall state fully the facts and circumstances the Agency should consider in its determination under this Section. The Agency may waive all or part of the application fee if the Agency determines that:

(1) the activity applied for would clearly result in a substantial public benefit to the environment or to the public health and safety and the registrant or applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the registration or permit application fee; or

(2) the amount of the registration or permit application fee is clearly excessive in relation to the cost to the Town for reviewing and processing the application.

(g) Extra Assessments

In the event that additional expenses, including but not limited to outside consultants, experts, or legal advisors are incurred in processing the registration or permit application the applicant/registrant may be assessed an additional fee not to exceed \$5,000 to cover said costs. Said fees are to be estimated by the duly authorized agent and submitted with the application fee and held until the application is completely processed after which time any residual funds pertaining to this assessment are to be returned to the applicant/registrant. For the purpose of this assessment, an “outside consultant” means a professional who is not an employee of the Town of Darien including but not limited to engineering, environmental, hydrogeology and hazardous materials management professionals.

(h) The Agency shall state upon its record the basis for all actions under this Section.

SECTION 19. EFFECTIVE DATE OF REGULATIONS

The APA Regulations, APA boundaries and amendments thereto, shall become effective upon (1) the Commissioner’s determination that such regulations are reasonably related to the purpose of ground water protection and not inconsistent with the Regulations of Connecticut State Agencies §22a-354i-1 through §22a-354i-10 and (2) filing in the Office of the Town Clerk.

Adopted on January 8, 2008

With an Effective Date: February 17, 2008

TOWN OF DARIEN

AQUIFER PROTECTION AREA REGULATIONS



FEBRUARY 2008